



United States Department of Agriculture  
Food and Nutrition Service

Southeast Region

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**Reply to**

**Attn. of:** SERO Policy

March 8, 2004

**Subject:** SFSP Policy Memorandum 225.06-38; NSLP Policy Memorandum 210.03-09: Seamless Summer Feeding Waiver (SSFW) Extension and Prototype – Fiscal Year (FY) 2004

**To:** All State Agency Directors

Summer Food Service Program (SFSP)

National School Lunch Program (NSLP)

Southeast Region

This is to inform you we are extending the Seamless Summer Feeding Waiver indefinitely. This waiver extension is subject to change, however, if Congress enacts reauthorization legislation that incorporates seamless waiver provisions into either the SFSP or the NSLP. In that event, we will notify you about the future status of the seamless waiver.

Consistent with our previous guidance, NSLP State agencies will retain approval authority for School Food Authorities to operate the waiver. State agencies should continue to administer the waiver based on the procedures developed by the Food and Nutrition Service (FNS) and described in the most current waiver application prototype and Question and Answer (Q&A) guidance, which is updated annually.

Minor revisions have been made to the waiver application prototype (attached) and the Q&A guidance for FY 2004, which is issued as SFSP Policy Memorandum 225.06-39 and NSLP Policy Memorandum 210.03-10. Changes have been highlighted for your convenience. An important clarification addresses permissible times of operation for the waiver. In response to questions about when the seamless waiver may operate throughout the year, we have specified in both documents that the waiver may only operate during times when the SFSP would operate in accordance with the SFSP regulations. These regulatory provisions are now listed in the prototype application as SFSP provisions that may not be waived in seamless waiver operations (see Part B, Item 2, non-exempted SFSP provisions). To further explain the policy on the times and conditions for the operation of the waiver by year-round schools, we relied on previously issued SFSP policy guidance, including SERO Policy Memorandum 225.06-14: Continuous School Calendar and Year-Round SFSP, dated February 22, 1999.

This Policy Memorandum supersedes previous guidance for the Seamless Summer Feeding Waiver, so Policy Memorandum *SFSP 225.06-34; NSLP 210.03-07; Seamless Summer Feeding Waiver (SSFW) Request (Prototype)-Fiscal Year 2003* is hereby rescinded. Please remove it from your numbered policy system and replace it with this Memorandum.

We appreciate your efforts to make the Seamless Waiver a continuing success in increasing summer meals served to children. Please notify your institutions and implement this policy as appropriate. Contact this office if you have any questions.

PEGGY FOUTS  
Regional Director  
Special Nutrition Programs

Attachment

**Seamless Summer Feeding Waiver  
Application Prototype: FY 2004**

**Part A: Identify School Food Authority (SFA); describe waiver request and special provisions**

**1. Information about the SFA requesting the waiver**

- Name, address, and phone number of responsible SFA official requesting the waiver.
- Optional -- list all child nutrition programs operated by the SFA
- Optional -- explain why the SFA wants to operate the waiver

**2. Description of the waiver request**

(a) \_\_\_\_\_ seeks approval under the waiver provisions found in section 12(l) of the Richard B. Russell National School Lunch Act (NSLA) (42 U.S.C. 1760) to operate a Seamless Summer Feeding Waiver in specific locations within its jurisdiction, referred to as *waiver sites*.

(b) The waiver combines features of the National School Lunch Program (NSLP), the School Breakfast Program (SBP), and the Summer Food Service Program (SFSP). The purpose of this waiver is to feed children in low-income areas during the summer months (or during extended breaks of a year-round school schedule). This waiver reduces paperwork and administrative burden that is normally associated with operating all three programs. To accomplish this, \_\_\_\_\_ requests a waiver of significant portions of the SFSP Federal regulations at 7 CFR Part 225. Specific provisions to be waived are identified in Part B. In lieu of SFSP regulations that are waived, \_\_\_\_\_ will follow corresponding requirements, where applicable, in the NSLP and SBP regulations at 7 CFR Parts 210 and 220, respectively.

**(c) Location and description of waiver sites**

Include the following information for each waiver site:

- Name, address, and phone number of site
- Sites operating on a year-round school calendar
- Percent of free/reduced price eligibility for school meals
- Type of site: open, restricted open, closed enrolled, migrant, or camp
- Organization that will operate the site for the SFA
- How meals will be advertised to the community (n/a for enrolled sites or camps)
- For closed enrolled sites only:
  - Identify all sites located in eligible areas
  - Identify data used to qualify each site (school or census data in eligible areas, income eligibility applications in other areas)
  - Explain why the SFA is sponsoring closed sites
- For camps only:
  - Indicate type of camp, residential or non-residential
  - Identify all camps located in eligible areas

- Explain why the SFA is sponsoring the camp
- Certify that the camp will only claim reimbursement for children that are determined eligible for free/reduced price meals
- Other information required by the State agency (e.g., estimated number of meals to be served, beginning and ending dates of meal service, days during week that meals will be served, types of meals to be served, etc.)

### **3. Special Provisions of the Seamless Summer Feeding Waiver**

\_\_\_\_\_ agrees to operate the Seamless Summer Feeding Waiver based on the following special provisions:

#### (a) General Program Administration and Sponsor Responsibilities

As required in § 225.14(c)(1) of the SFSP regulations, the SFA demonstrates financial and administrative capability for program operations and accepts final responsibility for total Program operations at all sites.

#### (b) Site Eligibility

The SFA will follow SFSP policy (established in the body of regulations, instructions, handbooks, and other written guidance) to choose waiver sites.

To the greatest extent possible, waiver sites will be located in eligible areas where 50 percent or more of the children qualify for free or reduced price school meals. These sites will be open to the community located in the eligible area, except that in some cases, participation may later be limited for reasons of safety, security, or control.

Schools that operate academic summer school sessions at waiver sites must be open for meals to all children in the area eligible community. Otherwise, schools will be ineligible to participate in the waiver, and meals at such schools will be reimbursed based on the individual student eligibility for free, reduced price, or paid rates.

Year-round schools may operate waiver sites for off-track students, provided that the sites are open to all children in the area eligible community. Meals for on-track students will be reimbursed based on the individual student eligibility for free, reduced price, or paid rates.

The SFA will not claim any meals under the seamless waiver at any site without receiving prior approval from the State agency.

#### (c) Times of Operation

The SFA will follow the SFSP regulations and policies that specify when the program may operate. These times are:

- May through September for schools operating on a traditional school year calendar;

- Other times during the year for schools operating on a continuous school calendar (i.e., year-round) when all or part of the children are on vacation for at least 15 continuous school days \*; and
- October through April for unanticipated school closures. \*\*

\* The 15-day requirement is based on the SFSP regulatory definition of a continuous school calendar as one in which a school operates year-round with scheduled breaks lasting at least 15 continuous school days per break. Therefore, SFAs may operate the SFSP or the seamless waiver at year-round schools during breaks lasting 15 continuous school days. However, if it is the policy of the school district to break for shorter periods of time, the State agency may waive the 15-day requirement to accommodate year-round schools with shorter scheduled breaks under certain conditions.

\*\* SFAs may operate the SFSP or the seamless waiver when schools are closed due to natural disasters, major building repairs, court orders relating to school safety or other issues, labor-management disputes, or when approved by the State agency for similar causes (see § 225.6(e)(1)(iii)). However, meals may only be served at non-school sites (see § 225.6(d)(1)(i)-(iv)). Note: year-round schools may respond to unanticipated school closures at any time of the year.

#### (d) Participant Eligibility

All persons meeting the definition of Children in the SFSP Federal regulations at § 225.2 are eligible to participate. This includes all persons in the community who are 18 years of age and under and (as defined at § 225.2) those persons over age 18 who meet the State agency definition of mentally or physically disabled persons.

#### (e) Meal Service

The SFA will follow NSLP meal service requirements for lunch or snacks (§ 210.10) and SBP meal service requirements (§ 220.8) for breakfast. With State agency approval, the SFA may serve a supper meal, using applicable NSLP meal service requirements for lunches.

The following provisions apply to meal service at waiver sites:

- Second meals are not reimbursable and may not be claimed;
- Production and menu records will be maintained that show compliance with meal requirements;
- The designated lunch period will be between the hours of 10 a.m. and 2 p.m., unless otherwise exempted by the State agency;
- The SFA may allow offer versus serve meals at waiver sites; and
- Off-site consumption of meals will not be allowed, except as part of a scheduled event such as a planned field trip.

#### (f) Number and Types of Reimbursable Meals

The number and types of meals will comply with the SFSP requirements at § 225.16(b), as described below:

- All sites except camps or migrant sites:  
With State agency approval, the SFA may serve up to two meals at all sites, except for camps or migrant sites. Meal service may include breakfast, lunch, snack, or supper. The SFA may not claim both lunch and supper meals at the same site on the same day.
- Camps and migrant sites:  
With State agency approval, the SFA may serve up to three meals or two meals and a snack per day.

(g) Free meals for eligible participants

Meals at all approved waiver sites, except camps, must be served free to all children in accordance with § 225.6(e)(4) of the SFSP regulations. Sponsors of camps may charge for the meals served to children who are ineligible to receive free or reduced price school meals.

(h) Claims and Reimbursements

Meals served under the seamless waiver are reimbursable at the “free” rates prescribed by USDA for the NSLP (including snacks) and the SBP. However, meals served at camps that are approved as waiver sites are reimbursable only for children who are eligible for free or reduced price rates for school meals. **Camps participating in the seamless waiver may not claim any meals at the NSLP paid rate for campers who are ineligible for free or reduced price meals.** Supper meals, if permitted by the State agency, may be claimed at the free rate for NSLP lunches. All lunches and suppers served under this waiver will receive the standard commodity support rate available for the NSLP. Waiver sites that qualify for the severe need breakfast rate will continue to receive this differential.

(i) Monitoring

The SFA will review the meal counting, claiming, and meal pattern compliance within three weeks of starting operations for all new sites and sites operated by non-SFA personnel. At the State agency’s option, the SFA does not have to review waiver sites that were reviewed within the last two years and had no significant operational deficiencies.

Edit checks, as outlined in § 210.8 will not be required for food service operations conducted under the waiver.

(j) Additional Reporting/Reviews/Evaluation

The State agency will include sites operated under this waiver in the management review requirements described at 210.18 of the NSLP regulations. If a CRE is conducted of the SFA, at least one waiver site must be visited while it is in operation.

FNS reserves the right to conduct an evaluation of these waiver sites. The evaluation may include periodic special reviews. The SFA agrees to cooperate as necessary, including making all applicable records and operations available for review.

FNS may request additional information for evaluation purposes. In the event that additional information on waiver site operations is required, FNS will allow sufficient time for the State agency and the SFA to comply with the request.

## Part B: Specific Regulatory Requirements to be Waived

### 1. Exempted SFSP Regulations

To operate the Seamless Summer Feeding Waiver, the SFA requests a waiver from the following regulatory provisions in 7 CFR Part 225:

7 CFR 225.3, Administration, entire section

7 CFR 225.4, Program management and administration plan, entire section

7 CFR 225.5, Payments to State agencies and use of Program funds, entire section

7 CFR 225.6, State agency responsibilities, entire section except subparagraphs in (d) and (e) as noted below

7 CFR 225.7, Program monitoring and assistance, entire section;

7 CFR 225.8, Records and reports, entire section;

7 CFR 225.9, Program assistance to sponsors, entire section;

7 CFR 225.10, Audits and management evaluations, entire section;

7 CFR 225.11, Corrective action procedures, entire section;

7 CFR 225.12, Claims against sponsors, entire section;

7 CFR 225.13, Appeal procedure, entire section;

7 CFR 225.14, Requirements for sponsor participation, entire section except subparagraphs in (c) and (d) as noted below

7 CFR 225.15, Management responsibilities of sponsor, entire section

7 CFR 225.16, Meal service requirement, entire section except paragraph (b) as noted below

CFR 225.17, Procurement standards, entire section;

7 CFR 225.18, Miscellaneous administrative provision, entire section.

**2. Non-exempted SFSP provisions**

SFSP regulatory provisions at 7 CFR 225 that remain in force include:

**§ 225.1**

-- States the general purpose and scope of the SFSP

**§ 225.2**

-- Provides definitions of terms used in the program

**§ 225.6(d)(1)(i)-(iv)**

-- Specifies criteria that must be considered by the State agency in approving sites, including the requirement that site to operate during an unanticipated school closure must be non-school sites

**§ 225.6(e)(1)(i)-(iii)**

-- Specifies the periods of time during which the program may operate as:

- May through September for children on school vacation
- Any time during the year when schools operating on a continuous school calendar schedule breaks for all or part of the children
- October through April for unanticipated school closures.

**§ 225.6(e)(4)**

-- Requires that sponsors agree to serve meals at no cost.

**§ 225.6(e)(7)**

-- Requires sponsors to agree to claim reimbursement only for the types of meals agreed upon with the State agency and served without charge to children at approved sites during the approved meal service period. This paragraph also prohibits permanent changes to the serving time of any meal unless approved by the State agency.

**§ 225.14(c)(1)**

-- Requires that sponsors demonstrate financial and administrative capability to operate the program and requires sponsors to accept final financial and administrative responsibility for the total program operations at all sites.

**§ 225.14(c)(2)**

-- Requires that sponsors must not have been declared seriously deficient in operating the program.

**§ 225.14(c)(3)**

-- Requires that sponsors will conduct a regularly scheduled food service for children from areas in which poor economic conditions exist (except for camps).

**§ 225.14(d)(2)**

-- Requires that meals served in schools must be open to children in the community as well as children enrolled in summer school.



§ 225.16(b)

-- Establishes limits on the number of meals that may be served.

### **3. NSLP and SBP Regulations**

Although the Federal regulations governing the NSLP and the SBP are not exempted under this waiver, some provisions may be difficult to follow for waiver sites. Therefore, FNS will provide technical assistance as necessary to the State agency and the SFA in adapting requirements.